

REMARKS

Applicants thank Examiner Wang for the courtesy extended in the interview with Applicants' representative on February 23, 2005, and for providing constructive suggestions about allowable subject matter. During the interview, all rejections of the record were discussed, especially the section 103(a) rejection of claims 1-6, 17, 19, 22-33, 43-54, 65, 70-81, and 91-100 in view of the cited references. The amendments to the rejected claims presented herein were also discussed. The general thrust of the interview discussion regarding these topics is set forth below.

I. Status of Claims

Claims 1-100 are pending in this application. Claims 7-16, 18, 20, 21, 34-42, 55-64, 66-69, and 82-90 have been withdrawn by the Examiner as related to non-elected subject matter. Office Action dated February 9, 2004, page 2. Claims 1-6, 17, 19, 22-33, 43-54, 65, 70-81, and 91-100 are subject to examination.

In the present Amendment, claims 1 and 49 have been amended. Support for the amendments can be found in the originally filed specification, for example, page 10, lines 10-11. Applicants have not introduced any new matter by the amendments, nor are any estoppels intended thereby.

II. Double Patenting Rejection

The Examiner rejected claims 1-6, 17, 19, 22-33, 43-54, 65, 70-81, and 91-100 under non-statutory obviousness-type double patenting as allegedly being unpatentable

over claims 44-146 of U.S. Patent No. 6,486,105. Outstanding Office Action, page 2. As indicated in the Responses dated May 10, 2004 and November 22, 2004, Applicants respectfully traverse this rejection, but request that this rejection be held in abeyance until allowable subject matter is indicated. At that time, Applicants will consider whether or not to file a Terminal Disclaimer.

III. Rejection under 35 U.S.C. § 103

The Examiner rejected claims 1-6, 17, 19, 22-33, 43-54, 65, 70-81, and 91-100 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Karlen et al. (U.S. Patent No. 6,004,545) ("Karlen") in view of Bertho et al. (U.S. Patent 5,688,930) ("Bertho '930") or Bertho et al. (U.S. Patent No. 6,087,403) ("Bertho '403"). Final Office Action, page 3. In the interview on February 23, 2005, "[t]he Examiner noted that the claimed method comprises two steps, a) applying the composition to hair; and b) heating the hair. The two steps may take place at the same time (during) or step a) prior to step b)." Interview Summary, page 3. The Examiner further clarified that "[t]he current rejections applied to the later situation[, i.e., applying the composition to hair prior to heating the hair]." *Id.* Applicants respectfully traverse this rejection for the reasons of record and at least the following reasons.

Specifically, in response to the Examiner's rejection, Applicants respectfully submit that the Examiner has failed to point to any requisite evidence of a motivation to arrive at the presently claimed invention comprising applying to the at least one keratinous fiber a composition comprising at least one compound chosen from C₃ to C₅

monosaccharides substituted with at least one C₁ to C₂₂ carbon chain, and then heating the at least one keratinous fiber. For example, *Karlen* and *Bertho* '930 or *Bertho* '403, either alone or in combination, only teach applying a composition to keratinous fibers and then washing or rinsing with water before heating. Conventional wisdom would also dictate that one would rinse a keratinous fiber following applying a hair care composition such as those disclosed in the cited references prior to heating. Therefore, unless the Examiner can point to specific motivation for applying a hair care composition as recited in the cited references prior to heating, Applicants respectfully request that this rejection be withdrawn.

Further, Applicants respectfully submit that the addition of the term "then" in claims 1 and 49 does not exclude certain scenarios, for example, wherein the composition is applied and there is a period of time prior to heating.

Accordingly, as the Examiner has failed to establish a *prima facie* case of obviousness, Applicants respectfully request this rejection be withdrawn.

IV. Conclusion

In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration and reexamination of this application, and the timely allowance of the pending claims.

If the Examiner believes a telephone conference would be useful in resolving any outstanding issues, he is invited to call the undersigned Applicants' representative at (202) 408-4218.

Please grant any extensions of time required to enter this response and charge
any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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